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OF COUNSEL:
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May 26, 2005

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REPLY TO:

Tampa

Thomas D. Hall, Clerk
Supreme Court of Florida
500 South Duval Street
Tallahassee, FL 32399-1927

Re: Inquiry Concerning a Judge No. 02-487
Case No.: SC03-1171
Our File No.: 63179901

Dear Mr. Hall:

Enclosed for filing are an original and eight copies of Respondent's Renewed Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law.

Please date stamp the copy and return same to us in the enclosed, self-addressed stamped envelope.

Thank you for your attention to this matter.

Sincerely,



David B. Weinstein

DBW/iww
Enclosures

cc: Charles P. Pillans, III, Esq.
Thomas C. MacDonald, Jr., Esq.
John Beranek, Esq.
Honorable John P. Kuder
Brooke Kennerly

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING
A JUDGE NO. 02-487

Supreme Court Case
No.: SC03-1171

**RESPONDENT'S RENEWED MOTION IN LIMINE
TO EXCLUDE TESTIMONY OF JEFFREY JOHN DEL FUOCO
AND SUPPORTING MEMORANDUM OF LAW**

The Honorable Gregory P. Holder (“Judge Holder” or “Respondent”), by counsel, files with the Hearing Panel of the Florida Judicial Qualifications Commission (“the Panel”) this Renewed Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law in light of additional restrictions that the U.S. Attorney has placed upon testimony in this case.¹

FACTUAL BACKGROUND

Respondent adopts the Background set forth in Respondent’s Motion in Limine to Exclude Evidence on Due Process Grounds (August 25, 2004) and further states as follows:

1. Mr. Del Fuoco is an Assistant U.S. Attorney (AUSA) for the Middle District of Florida and a key witness for the Special Counsel.

¹ The original Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law is incorporated into this Renewed Motion.

2. A Department of Justice (“DOJ”) employee may only testify to those “facts” or areas of inquiry that are pre-approved by the responsible U.S. Attorney. *See* 28 C.F.R. §§ 16.21 *et. seq.* To obtain such approval, a party must submit a “Touhy Request” outlining the subjects of testimony sought.

3. In December of 2003, Respondent initially requested permission from DOJ to depose Mr. Del Fuoco. *See* Appendix 1. In response, the United States Attorney for the Middle District of Florida, Paul I. Perez, restricted Mr. Del Fuoco’s deposition testimony solely to those facts that the JQC seeks to establish—that is, the identification of the critical documents in this case and little more. *See* Appendix 2. When a subpoena for deposition was issued to Mr. Del Fuoco in August 2004, Mr. Perez reiterated the restrictions upon Mr. Del Fuoco’s testimony. *See* Appendix 3. Accordingly, Respondent was prevented from obtaining significant deposition testimony from Mr. Del Fuoco.

4. Recently, Respondent’s counsel submitted additional Touhy Requests requesting that Mr. Perez authorize deposition and trial testimony from the following individuals in the United States Attorney’s Office:

- a. AUSA Jeffrey Del Fuoco;
- b. AUSA Jeffrey Downing;

- c. AUSA Robert E. O'Neill;
- d. AUSA Robert Mosakowski;
- e. First AUSA James Klindt; and
- f. United States Attorney Paul I. Perez.

These individuals can offer critical testimony regarding the key evidence in this case—the purported Holder paper²—and the credibility of the only individual possessing that evidence, Mr. Del Fuoco. Respondent's Touhy Requests contained a detailed description of the nature and extent of the testimony sought. *See* Appendix 4. Among other things, Respondent requested that these individuals be permitted to testify regarding 1) DOJ policies and procedures relating to maintaining an investigative file and evidence handling; 2) investigative efforts used to identify the source or authenticity of the purported Holder paper; 3) prior baseless complaints made by Mr. Del Fuoco regarding purported misconduct by other public officials; and 4) Mr. Del Fuoco's reputation for truthfulness at the United States Attorney's Office and within the relevant community.

5. In response, Mr. Perez denied in its entirety Respondent's request to allow Messrs. Perez, Klindt, O'Neill, and Mosakowski to testify at

² In early 2002, Del Fuoco purportedly discovered under his office door at the United States Army Reserve Headquarters in St. Petersburg, Florida an alleged copy of the Air War College ("AWC") Paper that Judge Holder submitted to AWC in 1998.

the Final Hearing. *See* Appendix 5. In addition, Mr. Perez stated that Messrs. Del Fuoco and Downing could only testify as previously authorized and could testify regarding forensics performed on the evidence.³ *See* Appendix 6. Mr. Perez noted that his denials are a “matter of federal prerogative” and are “not subject to further review by any other authority in these proceedings.” *See* Appendix 5-6.

6. In short, the DOJ has prevented key witnesses from testifying regarding matters critical to the merits of the case. This includes, but is not limited to, testimony regarding DOJ’s experience in receiving evidence, maintaining chains of custody, and loss of evidence, as well as testimony about documents or matters contained within, or relating to, the official file of the U.S. Attorney’s Office regarding this matter. Moreover, the ability to obtain testimony regarding Mr. Del Fuoco’s credibility has been severely restricted by DOJ’s most recent refusal.

7. Accordingly, the testimony of Mr. Del Fuoco should be excluded from evidence in this proceeding.

³ Subsequently, the U.S. Attorney’s office advised that it performed no such forensic analyses, and thus the expansion of scope is without consequence. *See* Appendix 7.

ARGUMENT

DOJ employees are forbidden from disclosing information acquired in their official duties or contained in department files without prior approval. *See* 28 C.F.R. § 16.22. Significantly, the Hearing Panel does not have the authority to compel a DOJ employee to exceed the scope of the testimony approved by Mr. Perez. Instead, the Florida Supreme Court has instructed that a court should exclude such testimony where a party “would be prejudiced if forced to confront these witnesses at trial without pretrial discovery” due to federally-imposed scope limitations. *State v. Tascarella*, 580 So.2d 154, 156 (Fla. 1991). Indeed, permitting Mr. Del Fuoco to testify with the severe restrictions placed on the scope of testimony by the United States Attorney’s Office would be highly prejudicial and would violate Respondent’s Florida and federal due process rights. Therefore, Mr. Del Fuoco’s testimony must be excluded.

A. Respondent is precluded from obtaining critical evidence.

Mr. Del Fuoco is the only source for the key evidence in this case: the purported Holder paper. Mr. Del Fuoco also claims to have possessed an anonymous note and envelope that accompanied the purported Holder paper. That evidence, however, has inexplicably disappeared from the U.S.

Attorney's Office's "official file." Only Mr. Del Fuoco and other members of the United States Attorney's Office have knowledge regarding, among other things, the circumstances surrounding the discovery of such evidence, the subsequent chain of custody, the access to the evidence, the loss of the note and envelope, and any attendant investigation regarding the evidence, including investigation into its source and authenticity.

However, during the discovery phase of this proceeding, the DOJ refused to permit Respondent to depose Messrs. Downing and Del Fuoco regarding these matters. For example, Assistant U.S. Attorney Ralph Lee refused to allow witnesses to testify as to documents contained in the file:

MR. WEINSTEIN: So the record is clear, with respect to what you have denominated as the USAO jacket, okay, you will not permit me to inquire regarding the documents that are in the jacket, correct?

MR. LEE: Absolutely not. They're beyond the scope of Mr. Perez's authorization.

(See Deposition of J. Downing at p. 23-24.) The DOJ has also refused to allow key witnesses to testify at all, and consequently, has prohibited Respondent from obtaining critical evidence regarding documents related to the purported Holder paper.

Without this critical testimony, Respondent has no way of determining the source of the note and envelope, who may have had access to the note and envelope, whether the note and envelope were destroyed or lost, and by whom. Additionally, without this testimony, Respondent will be unable to effectively confront Mr. Del Fuoco, the sole witness who has provided the key evidence that forms the basis of the charges. Indeed, it will be impossible to test Mr. Del Fuoco's recollection of significant events and assure the integrity of the critical evidence in this case. Accordingly, Mr. Del Fuoco's testimony should be excluded on this basis alone.

B. Respondent is impaired in his efforts to challenge the credibility of Mr. Del Fuoco, the JQC's primary witness.

Mr. Del Fuoco's credibility is central to this case and is subject to serious question. The DOJ, however, has denied Respondent the opportunity to elicit testimony from Mr. Del Fuoco and five other witnesses regarding Mr. Del Fuoco's credibility.

Among other things, the DOJ removed Mr. Del Fuoco from the Public Corruption Section and, subsequently, transferred him out of the Criminal Division and into the Civil Division of the Office. (*See* Deposition of J. Del Fuoco at 16.) Respondent's counsel has a good faith basis for believing that members of the United States Attorney's Office would testify that these

transfers occurred as a result of concerns about Mr. Del Fuoco's trustworthiness. In addition, counsel anticipates that these witnesses would testify that Mr. Del Fuoco has made numerous unsubstantiated complaints of misconduct and corruption against members of the United States Attorney's Office. The DOJ, however, has even prohibited Mr. Del Fuoco himself from testifying about these complaints:

Q. Okay. Would it be fair to say, Mr. Del Fuoco, that you've been the subject of retaliation even within the [U.S.] Attorney's Office for complaints that you've made regarding public corruption or other ethical matters?

....

A. I've been advised that that's outside the scope of the testimony.

(See Deposition of J. Del Fuoco at 17.) Indeed, the DOJ has even refused to permit testimony relating to both Mr. Del Fuoco's reputation for truthfulness in the relevant community and the refusal of law enforcement agencies and officers to work with Mr. Del Fuoco.

In short, Respondent will not be afforded the "considerable latitude" a defendant has in impeaching a witness's credibility. *See Hinojosa v. State*, 857 So.2d 308 (Fla. 2d DCA 2003). Instead, Respondent will be extremely impaired in his ability to effectively cross-examine Mr. Del Fuoco and

challenge the credibility of a critical witness in this case. *See Wooten v. State*, 464 So.2d 640 (Fla. 3d DCA 1985).

C. Mr. Del Fuoco's testimony should be excluded based on the Florida Supreme Court's decision in *State v. Tascarella*.

In *State v. Tascarella*, the Florida Supreme Court held that a court may exclude testimony of a witness that has been limited in scope by the federal government. *See State v. Tascarella*, 580 So.2d 154 (Fla. 1991). The facts of the instant case are even more compelling than those of *Tascarella*. In *Tascarella*, the DOJ witnesses were prohibited from attending their depositions. This resulted in neither *Tascarella* nor the State being able to depose the witnesses prior to trial. Given this limitation on pretrial discovery, the Florida Supreme Court held that it was proper to exclude the testimony of these DOJ employees.

In the instant case, the issue goes beyond a matter of timing. Here, the DOJ has limited its employees' testimony in both depositions and at trial. Moreover, the scope limitations themselves are particularly unfair to Respondent. In essence, the DOJ has only permitted testimony that the JQC needs to elicit from Mr. Del Fuoco—the identification of the documents provided to the JQC—and has denied the Respondent's requests to obtain evidence necessary to defend himself. Such skewed testimony is precisely

the type of unfairness that the Florida Supreme Court has authorized courts to prevent by excluding the limited testimony of federal employees.

D. The testimonial limitations violate Respondent's federal and Florida due process rights to a fair trial.

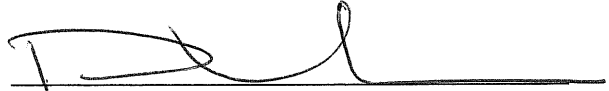
The Florida Supreme Court has also recognized that confrontation, cross-examination, and a fair trial are essential ingredients of due process. *See Sheiner v. State*, 82 So.2d 657 (Fla. 1955); *Petition for Revision of, or Amendment to, Integration Rule of the Florida Bar*, 103 So.2d 873 (Fla.1956). Importantly, a judge must be accorded both substantive and procedural due process of law and may not be removed from office unless the “adjudication of unfitness rests on constitutionally permissible standards and emerges from a proceeding which conforms to the minimum standards of due process.” *In re Inquiry Concerning a Judge, J.Q.C. No. 77-16*, 357 So.2d 172 (Fla. 1978), quoting, *In re Kelly*, 238 So.2d 565 (Fla. 1970). Here, permitting Mr. Del Fuoco to testify only as to some—but not all—relevant topics would violate Respondent's Florida and federal due process rights.

CONCLUSION

For the forgoing reasons, the Hearing Panel should exclude all testimony, affidavits, and depositions of Mr. Del Fuoco at the Final Hearing.

Dated: May 26, 2005

Respectfully Submitted,



David B. Weinstein

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Kimberly S. Mello

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Bales Weinstein

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Counsel for Judge Gregory P. Holder

CERTIFICATE OF SERVICE

I certify that on May 26th, 2005, a copy of the foregoing Respondent's Renewed Motion in Limine to Exclude Testimony of Jeffrey John Del Fuoco and Supporting Memorandum of Law has been served by regular U.S. Mail to: Ms. Brooke Kennerly, Hearing Panel Executive Director, 1110 Thomasville Road, Tallahassee, FL 32303; John Beranek, Counsel to the Hearing Panel, Ausley & McMullen, P.O. Box 391, Tallahassee, FL 32302; Thomas C. MacDonald, Jr., JQC General Counsel, 1904 Holly Lane, Tampa, FL 33629; and Charles P. Pillans, III, Esq., JQC Special Counsel, Bedell, Ditmar DeVault, Pillans & Coxe, P.A., The Bedell Building, 101 East Adams Street, Jacksonville, FL 32202. A courtesy copy has been provided by telecopier to the Honorable John P. Kuder, Chairman of the Hearing Panel, Judicial Building, 190 Governmental Center, Pensacola, FL 32501



Attorney

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING
A JUDGE NO. 02-487

Supreme Court Case
No.: SC03-1171

**APPENDIX TO
RESPONDENT'S RENEWED MOTION IN LIMINE
TO EXCLUDE TESTIMONY OF JEFFREY JOHN DEL FUOCO
AND SUPPORTING MEMORANDUM OF LAW**

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Counsel for Judge Gregory P. Holder

INDEX TO APPENDIX

Appendix 1

Letter from Virginia Zock Houser to James R. Clindt, Esq., First Assistant U.S. Attorney, Middle District of Florida, dated December 8, 2005

Appendix 2

- A. Letter from Paul I. Perez, U.S. Attorney, Middle District of Florida, to Virginia Z. Houser, Esq., dated December 18, 2003
- B. Letter from Paul I. Perez, U.S. Attorney, Middle District of Florida, to Charles P. Pillans, III, Esq., dated December 18, 2003

Appendix 3

Letter from Ralph J. Lee, AUSA, on behalf of Paul I. Perez, U.S. Attorney, Middle District of Florida, to David B. Weinstein, Esq., dated August 26, 2004

Appendix 4

- A. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 6, 2005 regarding the testimony of Jeffrey S. Downing
- B. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 6, 2005 regarding the testimony of Jeffrey J. Del Fuoco
- C. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 9, 2005 regarding the testimony of Robert E. O'Neill
- D. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 9, 2005 regarding the testimony of James R. Klindt
- E. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 9, 2005 regarding the testimony of Paul I. Perez
- F. Letter from David B. Weinstein to Ralph J. Lee, Esq., dated May 9, 2005 regarding the testimony of Robert Mosakowski

Appendix 5

Letter from Ralph J. Lee, AUSA, on behalf of Paul I. Perez, U.S. Attorney, Middle District of Florida, to David B. Weinstein, Esq., dated May 13, 2005

Appendix 6

Letter from Ralph J. Lee, AUSA, on behalf of Paul I. Perez, U.S. Attorney, Middle District of Florida, to David B. Weinstein, Esq. and Charles P. Pillans, Esq., dated May 13, 2005

Appendix 7

Letter from Ralph J. Lee, AUSA, on behalf of Paul I. Perez, U.S. Attorney, Middle District of Florida, to David B. Weinstein, Esq., dated May 20, 2005

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PRIVILEGED AND CONFIDENTIAL

December 8, 2003

James R. Clindt, Esq.
First Assistant U. S. Attorney
Department of Justice
300 N. Hogan Street, Suite 700
Jacksonville FL 32202-4270

VIA FACSIMILE (904) 301-6310
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Deposition Subpoenae for Jeffrey J. Del Fuoco and Jeffrey S. Downing

Dear Mr. Clindt,

I have been referred to you in the course of to my conversations on Friday afternoon, December 5, 2003, with Warren Zimmerman and Gregory W. Kehoe, both of whom are familiar with the above-referenced matter involving Judge Gregory P. Holder. The JQC has authorized issuance of subpoenae for the above-referenced federal employees. As you can see in the attached document, the JQC, through Charles Pillans, indicated that it intended to call Mr. Del Fuoco as a witness. As yet, it has not noticed him for deposition. Mr. Pillans is agreeable to December 16 or 17 in Tampa. The discovery cut off is December 17, 2003, as the final evidentiary hearing is scheduled for January 20, 2004.

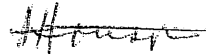
After my review of the relevant sections of the Code of Federal Regulations I can state that the subject matter of the deposition does not involve an issue under investigation by the Department. Mr. Del Fuoco's testimony is sought regarding actions performed in his status as a member of the United States Army reserve corps and his participation in the separate Air Force and JQC investigations.

No information relating to or based upon material contained in the files of the Department of Justice or information acquired as part of the performance of Mr. Del Fuoco's duties is sought. Nothing in his testimony would bring to bear any of the matters barring such testimony as set forth in Title 28 CFR § 16.23(b). Similarly, Mr. Downing's limited participation can be gleaned from the documentation attached to this correspondence.

I will contact your office tomorrow morning to discuss this matter in further detail.

Thank you for your attention to this matter.

Very truly yours,



Virginia Zock Houser

cc: Warren Zimmerman, Esq.
Gregory W. Kehoe, Esq
Lt. Col. Lauren Naumann-Johnson, USAF

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Reply to: Jacksonville, Florida

PIP/rgd

via Facsimile and U.S. Mail

December 18, 2003

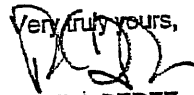
Virginia Z. Houser, Esq.
Bales, Weinstein, P.A.
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Re: JOC Inquiry No. 02-487

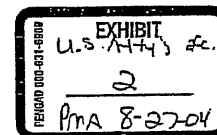
Dear Ms. Houser:

This is in response to your letter of December 8, 2003 to First Assistant United States Attorney James R. Klindt. You have asked for authority to depose AUSA Jeffrey Del Fuoco and AUSA Jeffrey Downing in the referenced Florida Judicial Qualifications Commission matter. While you have not specified your areas of inquiry, you represent that it is being conducted pursuant to the provisions of 28 C.F.R. §§ 1621 et seq.

This letter authorizes the depositions of AUSA Del Fuoco and AUSA Downing but only as to those matters contained in items 1 through 5 of my December 18, 2003 letter to Mr. Charles Pillans.

Very truly yours,

PAUL I. PEREZ
United States Attorney

cc: Charles P. Pillans, Esq.



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Reply to: Jacksonville, Florida

PIP/rgd

via Facsimile and U.S. Mail

December 18, 2003

Charles P. Pillans, III, Esq.
Bedell, Dittmar, DeVault, Pillans & Cox, P.A.
101 East Adams Street
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Fax: (904) 353-9307

Re: JOG Inquiry No. 02-487

Dear Mr. Pillans:

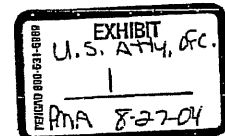
This is in response to your letter of December 15, 2003 to AUSA Jeffrey S. Downing. Pursuant to the provisions of 28 C.F.R. §§ 1621 et seq., I am authorizing AUSA Downing, AUSA Jeffrey Del Fuoco and AUSA Kenneth Lawson to give testimony at a Judicial Qualifications Commission Hearing scheduled to begin January 20, 2004 in Tampa in regards to the following limited areas:

1. to identify copies of the alleged plagiarized paper;
2. to identify copies of the paper written by Lieutenant Colonel Hoard from which the plagiarized material was taken;
3. to identify the letter dated December, 20, 2002 referring the matter to the Judicial Qualifications Commission;
4. as to AUSA Del Fuoco only, to identify the documents he received from AUSA Lawson which bear baté stamps numbers KELjd1 -KELjd 71; and
5. as to AUSA Lawson only, to identify the papers which he gave to AUSA Del Fuoco.

This authority does not extend to any questions directed to AUSA Downing or AUSA Del Fuoco "to explain briefly the investigation by the U.S. Attorneys Office, specifically, the beginning and ending dates that the file was open." It is the policy of this Office neither to confirm or deny the existence of an investigation.

Very truly yours,

PAUL I. PEREZ
United States Attorney



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Reply to: **Jacksonville, FL**

August 26, 2004

FACSIMILE: (813) 224-9109
and
HAND DELIVERY

David B. Weinstein, Esquire
625 East Twiggs Street, suite 100
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Re: Deposition; Jeffrey J. Del Fucco

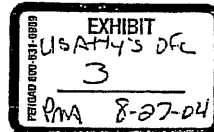
Dear Mr Weinstein:

This will summarize our conversation of today, wherein we discussed the U.S. Attorney's scope determination regarding the permissible testimony of Mr. Del Fucco as an Assistant U.S. Attorney. I informed you the U.S. Attorney's scope determination addresses any information related to, based upon or contained in the files of the U.S. Attorney, as well any information known by Mr. Del Fucco because of his performance of official duties as an Assistant U.S. Attorney or because of his official status as an Assistant U.S. Attorney. Any information not so implicating U.S. Attorney information or Mr. Del Fucco's official duties or status as an Assistant U.S. Attorney is not addressed by the U.S. Attorney's scope determination. Should you require further discussion, please do not hesitate to address it with me when we meet prior to Mr. Del Fucco's deposition.

Sincerely,

PAUL I. PEREZ
United States Attorney

RAKPA J. YEE
Assistant United States Attorney



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OF COUNSEL:
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PRIVILEGED AND CONFIDENTIAL

May 6, 2005

Ralph J. Lee, Esq.
Assistant United States Attorney
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VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of Jeffrey S. Downing

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize Assistant United States Attorney Jeffrey Downing to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. Downing to testify regarding the following specific areas of inquiry:

A BALES WEINSTEIN
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TELEPHONE (813) 224-9100
FACSIMILE (813) 224-9109

ST. PETERSBURG OFFICE
11300 FOURTH STREET N., SUITE 117
ST. PETERSBURG, FLORIDA 33716
TELEPHONE (727) 823-9100
FACSIMILE (727) 579-9109

REPLY TO:

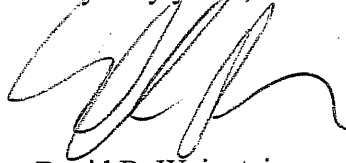
1. DOJ policies and procedures for opening a file or "Blue Sheet," including such policies and procedures where evidence is submitted anonymously;
2. DOJ policies and procedure for handling and processing evidence, including forensic and other analysis of evidence;
3. Forensic and other analyses actually performed on the PHP;
4. Forensic and other analyses actually performed on the Envelope;
5. Forensic and other analyses actually performed on the Note;
6. Forensic and other analyses actually performed on the Hoard Paper;
7. Forensic and other analyses actually performed on the Shed Papers;
8. Any and all investigative efforts used to identify the source or authenticity of the PHP;
9. Any and all investigative efforts used to identify the source or authenticity of the Envelope;
10. Any and all investigative efforts used to identify the source or authenticity of the Note;
11. Any and all investigative efforts used to identify the source or authenticity of the Hoard Paper;
12. Any and all investigative efforts used to identify the source or authenticity of the Shed Papers;
13. DOJ policies and procedures regarding chain of custody and access to evidence contained in investigative files;
14. The identity of each and every person who had access at any time to the PHP, Envelope, Note, Hoard Paper, and Shed Papers, including the specific dates and times such evidence was accessed and the reason for the access;
15. All contact with any and all personnel of the United States Air Force regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;

16. All contact with any and all personnel of any branch of the United States Armed Services regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
17. Del Fuoco's complaints and/or reports of corruption or misconduct on the part of Paul I Perez, Robert O'Neill, or any other Assistant United States Attorney;
18. The details and results of any investigation of allegations or reports by Del Fuoco regarding corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, or any other Assistant United States Attorney;
19. Any investigation regarding any alleged misconduct, improprieties, or violations of Florida or federal law by Del Fuoco as alleged by counsel for Sheriff Charles Wells in the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161;
20. The circumstances surrounding Del Fuoco's transfer from the Civil to the Criminal division within the US Attorney's Office;
21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
22. The circumstances surrounding Del Fuoco's Florida Bar complaints against attorneys in Tampa, Florida, as well as the DOJ's investigation or review of such Bar complaints by Del Fuoco;
23. The circumstances surrounding Florida Bar complaints made against Del Fuoco in conjunction with the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161, as well as the DOJ's investigation regarding such Bar complaints;
24. The refusal of law enforcement agencies and/or officers to work with Del Fuoco, as well as any review or investigation by DOJ regarding such refusals;
25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the Tampa legal community;

28. Del Fuoco's reputation for truthfulness within the Tampa law enforcement community;
29. Any action by Del Fuoco that calls into question his character; and,
30. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Weinstein', with a stylized flourish at the end.

David B. Weinstein

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DAVID B. WEINSTEIN

OF COUNSEL:
STEPHEN B. DUKE
DANIEL P. FERNANDEZ

PRIVILEGED AND CONFIDENTIAL

May 6, 2005

Ralph J. Lee, Esq.
Assistant United States Attorney
U. S. Department of Justice
Middle District of Florida
300 North Hogan Street, Suite 700
Jacksonville, FL 32202

VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of Jeffrey J. Del Fuoco

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize Assistant United States Attorney Jeffrey Del Fuoco to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. Del Fuoco to testify regarding the following specific areas of inquiry:

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FACSIMILE (727) 579-9109

REPLY TO:

1. DOJ policies and procedures for opening a file or "Blue Sheet," including such policies and procedures where evidence is submitted anonymously;
2. DOJ policies and procedure for handling and processing evidence, including forensic and other analysis of evidence;
3. Forensic and other analyses actually performed on the PHP;
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5. Forensic and other analyses actually performed on the Note;
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7. Forensic and other analyses actually performed on the Shed Papers;
8. Any and all investigative efforts used to identify the source or authenticity of the PHP;
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10. Any and all investigative efforts used to identify the source or authenticity of the Note;
11. Any and all investigative efforts used to identify the source or authenticity of the Hoard Paper;
12. Any and all investigative efforts used to identify the source or authenticity of the Shed Papers;
13. DOJ policies and procedures regarding chain of custody and access to evidence contained in investigative files;
14. The identity of each and every person who had access at any time to the PHP, Envelope, Note, Hoard Paper, and Shed Papers, including the specific dates and times such evidence was accessed and the reason for the access;
15. All contact with any and all personnel of the United States Air Force regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;

16. All contact with any and all personnel of any branch of the United States Armed Services regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
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20. The circumstances surrounding Del Fuoco's transfer from the Civil to the Criminal division within the US Attorney's Office;
21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
22. The circumstances surrounding Del Fuoco's Florida Bar complaints against attorneys in Tampa, Florida, as well as the DOJ's investigation or review of such Bar complaints by Del Fuoco;
23. The circumstances surrounding Florida Bar complaints made against Del Fuoco in conjunction with the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161, as well as the DOJ's investigation regarding such Bar complaints;
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25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the Tampa legal community;

28. Del Fuoco's reputation for truthfulness within the Tampa law enforcement community;
29. Any action by Del Fuoco that calls into question his character; and,
30. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

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David B. Weinstein

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DAVID B. WEINSTEIN

PRIVILEGED AND CONFIDENTIAL

May 9, 2005

OF COUNSEL:
STEPHEN B. DUKE
DANIEL P. FERNANDEZ

Ralph J. Lee, Esq.
Assistant United States Attorney
U. S. Department of Justice
Middle District of Florida
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FACSIMILE (727) 579-9109

REPLY TO:

VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of Robert E. O'Neill

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize Assistant United States Attorney Robert E. O'Neill to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. O'Neill to testify regarding the following specific areas of inquiry:

1. DOJ policies and procedures for opening a file or "Blue Sheet," including such policies and procedures where evidence is submitted anonymously;
2. DOJ policies and procedure for handling and processing evidence, including forensic and other analysis of evidence;
3. Forensic and other analyses actually performed on the PHP;
4. Forensic and other analyses actually performed on the Envelope;
5. Forensic and other analyses actually performed on the Note;
6. Forensic and other analyses actually performed on the Hoard Paper;
7. Forensic and other analyses actually performed on the Shed Papers;
8. Any and all investigative efforts used to identify the source or authenticity of the PHP;
9. Any and all investigative efforts used to identify the source or authenticity of the Envelope;
10. Any and all investigative efforts used to identify the source or authenticity of the Note;
11. Any and all investigative efforts used to identify the source or authenticity of the Hoard Paper;
12. Any and all investigative efforts used to identify the source or authenticity of the Shed Papers;
13. DOJ policies and procedures regarding chain of custody and access to evidence contained in investigative files;
14. The identity of each and every person who had access at any time to the PHP, Envelope, Note, Hoard Paper, and Shed Papers, including the specific dates and times such evidence was accessed and the reason for the access;
15. All contact with any and all personnel of the United States Air Force regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;

16. All contact with any and all personnel of any branch of the United States Armed Services regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
17. Del Fuoco's complaints and/or reports of corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
18. The details and results of any investigation of allegations or reports by Del Fuoco regarding corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
19. Any investigation regarding any alleged misconduct, improprieties, or violations of Florida or federal law by Del Fuoco as alleged by counsel for Sheriff Charles Wells in the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161;
20. The circumstances surrounding Del Fuoco's transfer from the Civil to the Criminal division within the US Attorney's Office;
21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
22. The circumstances surrounding Del Fuoco's Florida Bar complaints against attorneys in Tampa, Florida, as well as the DOJ's investigation or review of such Bar complaints by Del Fuoco;
23. The circumstances surrounding Florida Bar complaints made against Del Fuoco in conjunction with the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161, as well as the DOJ's investigation regarding such Bar complaints;
24. The refusal of law enforcement agencies and/or officers to work with Del Fuoco, as well as any review or investigation by DOJ regarding such refusals;
25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the relevant community;

- 28. Any action by Del Fuoco that calls into question his character; and,
- 29. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Weinstein', with a long horizontal line extending to the right.

David B. Weinstein

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ATTORNEYS AT LAW

JOHN CALHOUN BALES
AMY L. BADOW
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SCOTT P. DISTASIO
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DAVID B. WEINSTEIN

PRIVILEGED AND CONFIDENTIAL

May 9, 2005

OF COUNSEL:
STEPHEN B. DUKE
DANIEL P. FERNANDEZ

Ralph J. Lee, Esq.
Assistant United States Attorney
U. S. Department of Justice
Middle District of Florida
300 North Hogan Street, Suite 700
Jacksonville, FL 32202

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ST. PETERSBURG, FLORIDA 33716
TELEPHONE (727) 823-9100
FACSIMILE (727) 579-9109

REPLY TO:

VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of James R. Klindt

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize Assistant United States Attorney James R. Klindt to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. Klindt to testify regarding the following specific areas of inquiry:

1. DOJ policies and procedures for opening a file or "Blue Sheet," including such policies and procedures where evidence is submitted anonymously;
2. DOJ policies and procedure for handling and processing evidence, including forensic and other analysis of evidence;
3. Forensic and other analyses actually performed on the PHP;
4. Forensic and other analyses actually performed on the Envelope;
5. Forensic and other analyses actually performed on the Note;
6. Forensic and other analyses actually performed on the Hoard Paper;
7. Forensic and other analyses actually performed on the Shed Papers;
8. Any and all investigative efforts used to identify the source or authenticity of the PHP;
9. Any and all investigative efforts used to identify the source or authenticity of the Envelope;
10. Any and all investigative efforts used to identify the source or authenticity of the Note;
11. Any and all investigative efforts used to identify the source or authenticity of the Hoard Paper;
12. Any and all investigative efforts used to identify the source or authenticity of the Shed Papers;
13. DOJ policies and procedures regarding chain of custody and access to evidence contained in investigative files;
14. The identity of each and every person who had access at any time to the PHP, Envelope, Note, Hoard Paper, and Shed Papers, including the specific dates and times such evidence was accessed and the reason for the access;
15. All contact with any and all personnel of the United States Air Force regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;

16. All contact with any and all personnel of any branch of the United States Armed Services regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
17. Del Fuoco's complaints and/or reports of corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
18. The details and results of any investigation of allegations or reports by Del Fuoco regarding corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
19. Any investigation regarding any alleged misconduct, improprieties, or violations of Florida or federal law by Del Fuoco as alleged by counsel for Sheriff Charles Wells in the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161;
20. The circumstances surrounding Del Fuoco's transfer from the Civil to the Criminal division within the US Attorney's Office;
21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
22. The circumstances surrounding Del Fuoco's Florida Bar complaints against attorneys in Tampa, Florida, as well as the DOJ's investigation or review of such Bar complaints by Del Fuoco;
23. The circumstances surrounding Florida Bar complaints made against Del Fuoco in conjunction with the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161, as well as the DOJ's investigation regarding such Bar complaints;
24. The refusal of law enforcement agencies and/or officers to work with Del Fuoco, as well as any review or investigation by DOJ regarding such refusals;
25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the relevant community;

- 28. Any action by Del Fuoco that calls into question his character; and,
- 29. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Weinstein', with a long horizontal flourish extending to the right.

David B. Weinstein

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DAVID B. WEINSTEIN

PRIVILEGED AND CONFIDENTIAL

May 9, 2005

OF COUNSEL:
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Ralph J. Lee, Esq.
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REPLY TO:

VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of Paul I. Perez

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize United States Attorney Paul I. Perez to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. Perez to testify regarding the following specific areas of inquiry:

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21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
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24. The refusal of law enforcement agencies and/or officers to work with Del Fuoco, as well as any review or investigation by DOJ regarding such refusals;
25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the relevant community;

- 28. Any action by Del Fuoco that calls into question his character; and,
- 29. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line that ends in a small loop.

David B. Weinstein

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PRIVILEGED AND CONFIDENTIAL

May 9, 2005

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REPLY TO:

Ralph J. Lee, Esq.
Assistant United States Attorney
U. S. Department of Justice
Middle District of Florida
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Jacksonville, FL 32202

VIA FACSIMILE (904) 301-6363
AND FEDERAL EXPRESS

Re: Before The Florida Judicial Qualifications Commission
Inquiry Concerning a Judge No. 02-487
Supreme Court Case No.: SC03-1171

Testimony of Robert Mosakowski

Dear Mr. Lee,

Pursuant to the provisions of 28 C.F.R. § 1621, et seq., we request that, on behalf of the United States Department of Justice ("DOJ"), you authorize Assistant United States Attorney Robert Mosakowski Del Fuoco to testify at deposition, if necessary, and at trial in the referenced matter regarding, among other things, five documents: 1) a United States Air Force Air War College Paper purportedly authored by Hillsborough County Circuit Judge Gregory P. Holder ("PHP") and anonymously provided to AUSA Del Fuoco on or about January 12, 2002; 2) a United States Air Force Air War College Paper purportedly authored by E. David Hoard ("Hoard Paper") and enclosed with the PHP; 3) an 8 ½ x 11" envelope containing the PHP and Hoard Paper ("Envelope"); 4) a typewritten note accompanying the PHP and Hoard Paper ("Note"); and 5) papers allegedly found in a storage locker on October 3, 2003 by AUSA Del Fuoco and subsequently bates stamped by Mr. Del Fuoco as "KELjd 1-171" ("Shed Papers"). In addition to testimony regarding the referenced documents, we are seeking authorization for Mr. Mosakowski to testify regarding the following specific areas of inquiry:

1. DOJ policies and procedures for opening a file or "Blue Sheet," including such policies and procedures where evidence is submitted anonymously;
2. DOJ policies and procedure for handling and processing evidence, including forensic and other analysis of evidence;
3. Forensic and other analyses actually performed on the PHP;
4. Forensic and other analyses actually performed on the Envelope;
5. Forensic and other analyses actually performed on the Note;
6. Forensic and other analyses actually performed on the Hoard Paper;
7. Forensic and other analyses actually performed on the Shed Papers;
8. Any and all investigative efforts used to identify the source or authenticity of the PHP;
9. Any and all investigative efforts used to identify the source or authenticity of the Envelope;
10. Any and all investigative efforts used to identify the source or authenticity of the Note;
11. Any and all investigative efforts used to identify the source or authenticity of the Hoard Paper;
12. Any and all investigative efforts used to identify the source or authenticity of the Shed Papers;
13. DOJ policies and procedures regarding chain of custody and access to evidence contained in investigative files;
14. The identity of each and every person who had access at any time to the PHP, Envelope, Note, Hoard Paper, and Shed Papers, including the specific dates and times such evidence was accessed and the reason for the access;
15. All contact with any and all personnel of the United States Air Force regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;

16. All contact with any and all personnel of any branch of the United States Armed Services regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
17. Del Fuoco's complaints and/or reports of corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
18. The details and results of any investigation of allegations or reports by Del Fuoco regarding corruption or misconduct on the part of Paul I. Perez, Robert O'Neill, James Klindt, Robert Mosakowski, or any other Assistant United States Attorney;
19. Any investigation regarding any alleged misconduct, improprieties, or violations of Florida or federal law by Del Fuoco as alleged by counsel for Sheriff Charles Wells in the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161;
20. The circumstances surrounding Del Fuoco's transfer from the Civil to the Criminal division within the US Attorney's Office;
21. The witnesses interviewed and evidence considered in the DOJ's investigation regarding the PHP, Envelope, Note, Hoard Paper, and Shed Papers;
22. The circumstances surrounding Del Fuoco's Florida Bar complaints against attorneys in Tampa, Florida, as well as the DOJ's investigation or review of such Bar complaints by Del Fuoco;
23. The circumstances surrounding Florida Bar complaints made against Del Fuoco in conjunction with the matter pending in the United States District Court for the Middle District of Florida and styled *Del Fuoco v. Wells, et al.* 8:03-cv-161, as well as the DOJ's investigation regarding such Bar complaints;
24. The refusal of law enforcement agencies and/or officers to work with Del Fuoco, as well as any review or investigation by DOJ regarding such refusals;
25. Any review, investigation, or report by DOJ regarding any allegation made by Del Fuoco against any person that was determined to be unsubstantiated;
26. Del Fuoco's reputation for truthfulness within the US Attorney's Office for the Middle District of Florida;
27. Del Fuoco's reputation for truthfulness within the relevant community;

- 28. Any action by Del Fuoco that calls into question his character; and,
- 29. Any statements by Del Fuoco regarding Judge Holder.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line that ends in a small loop.

David B. Weinstein

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Reply to: **Jacksonville, FL**

May 13, 2005

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Re: Florida Judicial Qualifications Commission, Inquiry Concerning a Judge,
No. 02-487; Florida Supreme Court Case SC03-1171

Dear Mr. Weinstein:

The May 9th requests your office submitted seeking approval to obtain testimony at deposition or trial in this matter from Paul Perez, United States Attorney, James Klindt, First Assistant United States Attorney, Robert O'Neill and Robert Mosakowski, Assistant United States Attorneys, all of whom are officials of the United States Department of Justice, United States Attorneys Office, Middle District of Florida, has been considered and denied. These determinations are a matter of federal prerogative, regulated in accordance with governing federal regulations. 28 C.F.R. §§ 16.21 *et seq.* These determinations are not subject to further review by any other authority in these proceedings. The United States Supreme Court has consistently so held. United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951), and its progeny. This principle of federal sovereignty is specifically respected by the Supreme Court of the State of Florida. State v. Tascarella, 580 So. 2d 154, 156, n.2 (Fla. 1991).

Should you require further discussion, please feel free to contact me at your convenience.

Sincerely,

PAUL I. PEREZ
United States Attorney

RALPH J. LEE
Assistant United States Attorney

David B. Weinstein, Esq.
May 13, 2005
Page 2

cc:

Charles H. Pillans, III
Facsimile: 353-9307
and

First Class Mail

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May 13, 2005

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The Bedell Building, 100 East Adams Street
Jacksonville, Florida, 32203

Re: Florida Judicial Qualifications Commission, Inquiry Concerning a Judge,
No. 02-487; Florida Supreme Court Case SC03-1171

Dear Messrs. Weinstein and Pillans:

The May 6th requests submitted by Mr. Weinstein, and the May 13th requests submitted by Mr. Pillans, seeking approval to obtain testimony at deposition or trial in this matter from Jeffrey J. Del Fuoco and Jeffrey S. Downing, Assistant United States Attorneys (AUSAs), both of whom are officials of the United States Department of Justice, United States Attorneys Office, Middle District of Florida, has been considered.

These individuals were previously authorized to testify, and their depositions were taken, in regards to the following limited areas:

1. To identify copies of the alleged plagiarized paper;
2. To identify copies of the paper written by Lieutenant Colonel Hoard from which the alleged plagiarized material was taken;
3. To identify the letter dated December 20, 2002, referring the matter to the Judicial Qualifications Commission; and
4. As to Del Fuoco only, to identify the documents he received from former Assistant United States Attorney Lawson which bear the bates stamps numbers KELjd1 - KELjd171.

They were not authorized to testify regarding a further request, to wit: "to explain briefly the investigation by the U.S. Attorneys Office, specifically, the beginning and ending dates that the file was open." As explained then, it is the policy of this Office neither confirm or deny the existence of an investigation.

This previous authority, as limited, is continued.

Mr. Weinstein's current request sets forth areas of inquiry numbered 1~30, and Mr. Pillans current request joins in Mr. Weinstein's requests numbered 1~16 and 30, for which the testimony of AUSAs Del Fuoco and Downing is sought to be authorized. These requests are approved in part, and denied in part. They are authorized to testify regarding requests 3~7, to wit: "Forensic and other analyses actually performed on the PHP ... Envelope ... Note ... Hoard Paper ... [and] Shed Papers." They are not authorized to testify regarding requests 1, 2 or 8~30.

The foregoing limited authority is to be construed in strict compliance with the limitations set forth and solely within the scope of the requests tendered to this Office to date. Any testimony sought that is not clearly and unequivocally within the scope of a request to and a response from this Office, as determined exclusively by the authority of this Office, is specifically unauthorized.

These determinations are a matter of federal prerogative, regulated in accordance with governing federal regulations. 28 C.F.R. §§ 16.21 *et seq.* These determinations are not subject to further review by any other authority in these proceedings. The United States Supreme Court has consistently so held. United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951), and its progeny. This principle of federal sovereignty is specifically respected by the Supreme Court of the State of Florida. State v. Tascarella, 580 So. 2d 154, 156, n.2 (Fla. 1991).

Should you require further discussion, please feel free to contact me at your convenience.

Sincerely,

PAUL I. PEREZ
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May 20, 2005

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Jacksonville, Florida, 32203

Re: Florida Judicial Qualifications Commission, Inquiry Concerning a Judge,
No. 02-487; Florida Supreme Court Case SC03-1171

Dear Messrs. Weinstein and Pillans:

This will confirm my recent representations to you that should Jeffrey J. Del Fuoco and Jeffrey S. Downing, Assistant United States Attorneys (AUSAs) be inquired of regarding "Forensic and other analyses actually performed on the PHP ... Envelope ... Note ... Hoard Paper ... [and] Shed Papers," contemplated by your respective letters of May 6th and 13th as authorized by our letter of May 13th, they would provide responses to the effect that they know of no forensic or other equivalent analysis, beyond their own untrained review of said documents, that was actually performed regarding those documents.

Should you require further discussion, please feel free to contact me at your convenience.

Sincerely,

PAUL I. PEREZ
United States Attorney

RALPH J. LEE
Assistant United States Attorney